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William B. Crow, Esq., OSB #61018
bcrow@schwabe.com
SCHWABE, WILLIAMSON & WYATT, P.C.
1211 S.W. Fifth Avenue
Suite 1600-1900
Portland, Or 97204
Tel: (503) 222-9981
Fax: (503) 796-2900

*Attorney for Defendant
Metrologic Instruments, Inc.*

Todd R. Johnston, OSB 99291
tjohnston@hershnerhunter.com
Hershner Hunter, LLP
P.O. Box 1475
Eugene, OR 97440
Telephone: (541) 686-8511
Fax: (541) 344-2025

*Attorney for Plaintiff
Datalogic Scanning, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DATALOGIC SCANNING, INC., a Delaware
corporation,

Plaintiff,

v.

METROLOGIC INSTRUMENTS, INC., a
New Jersey corporation,

Defendant.

Case No. 08-cv-06091-AA

JOINT ESI STIPULATION AND ORDER

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WHEREAS, Plaintiff Datalogic Scanning, Inc. (“Datalogic”) and Defendant Metrologic Instruments, Inc. (“Metrologic”) (collectively, the “Parties”) desire to facilitate the production of electronically stored information (“ESI”) previously collected as directed by Judge Coffin’s August 16,

2007 Order in the case of Datalogic v. Metrologic, 06-cv-6102-TC, pending in the United States District Court, District of Oregon (the "Patent Case"). This information is presently in the custody of Datalogic's Consultant, Stroz Friedberg LLC ("Datalogic's Consultant") pursuant to that Order;

WHEREAS, Datalogic and Metrologic have previously agreed to a Stipulated Protective Order ("SPO") in the present case, signed and entered by the Court on September 25, 2008;

NOW, THEREFORE, the undersigned enter into the following Joint ESI Stipulation and Order (hereinafter "Stipulation"), subject to the approval of the Court.

1. The Parties agree that the ESI experts previously engaged by the Parties in the Patent Case are approved under the provisions of Paragraph 10 of the SPO upon receipt of an executed Acknowledgment under this ESI Order, attached hereto as Exhibit A, and an executed Undertaking under the SPO. These experts are as follows:

Datalogic's ESI Expert (hereinafter
"Consultant")

Stroz Friedberg, LLC
32 Avenue of the Americas 4th Floor
New York, NY 10013
Phone: 212-981-6540
Fax: 212-981-6545

Metrologic's ESI Expert

Capsicum Group, LLC
The Cira Centre
2929 Arch Street, Suite 1525
Philadelphia, Pa 19104
Phone: (215) 222-3101
Fax: (215) 222-3106

2. This ESI Order covers only discovery of ESI previously collected and stored with Consultant from the named Metrologic custodians under the terms of the August 16, 2007 Order in the Patent Case (Docket Entry No. 92).

3. Consultant will hold the data in a safe and secure repository under the control of Consultant, in accordance with paragraph 5 and the provisions of the SPO entered in this action and will not disclose or relay the data collected to Datalogic or Datalogic's counsel until such time as the collected data, has been reviewed by Metrologic's counsel in accordance with paragraphs 4 and 5.

However, during the acquisition of data and subsequent to it, Consultant may communicate with Datalogic's counsel as necessary in order to facilitate and refine Consultant's search efforts, but may not produce the content of files collected prior to review by Metrologic.

4. Datalogic's ESI Expert will create a "Directory Report" that contains each file name, date and path information to be provided to Plaintiff and Defendant. Metrologic shall have fifteen business (15) days within which to create a privilege log addressed to documents in relation to which Metrologic asserts a claim of privilege. Metrologic may request that the Court undertake an *in camera* review of any documents or class of documents, which it asserts are not relevant and should not be produced. Consultant may identify relevant search terms present in the documents to Plaintiff and Consultant may submit to the Court reasons why any document subject to *in camera* review should be reviewed.

5. To facilitate Metrologic's review of the data identified and collected by Consultant, Consultant shall provide in native format the files for review. Such review and any accompanying review of the production shall be conducted by Metrologic's counsel within fifteen (15) business days of the provision of the native files and Directory Report.

6. Consultant shall maintain any information obtained from the data acquisition in strict confidence with appropriate security measures for trade secret information. Except as detailed herein, Consultant shall in no instance provide access to or any copy of the image to any non-party to this action other than qualified experts and the Court – except as required by law.

7. Through execution of the Acknowledgment attached to this Stipulation, all Consultants hired by either party agree to submit to the jurisdiction and authority of the Court for purposes of enforcement of this Stipulation, and in the event of any failure of compliance, may be subject to appropriate sanctions, including without limitation contempt penalties.

8. The production of privileged or otherwise protected documents pursuant to this Stipulation shall not constitute a waiver of that privilege or protection.

STIPULATED TO:

By Counsel for Datalogic:

/s/Todd R. Johnston

Dated: October 14, 2008


By Counsel for Metrologic:

/s/ William B. Crow

Dated: October 14, 2008

IT IS SO ORDERED.

DATED this 15 day of October, 2008.



The Honorable Ann Aiken
United States District Court Judge

EXHIBIT A

ACKNOWLEDGMENT

I, _____, an expert retained in the above-referenced action, hereby acknowledge that I have read and understand the foregoing Joint ESI Stipulation and Order, and that I agree to be bound by the terms thereof. I also acknowledge that I have read and understand the Stipulated Protective Order executed by the Parties and entered by the Court on September 25, 2008, and that I have executed Exhibit A to the same.

I further agree and do hereby submit myself to the jurisdiction of the Court in all matters concerning enforcement or violation of the Joint ESI Stipulation and Order. For this purpose, I may be served and do hereby accept service by registered mail, return receipt requested, at the following address:

DATED this _____ day of _____, 2008.

BY: _____
NAME: _____
ADDRESS: _____
